

(vii) A deferred annuity under FERS as set forth in § 842.212 of this chapter;

(viii) A survivor annuity under FERS based on the death in service of an employee with at least 10 years of service as set forth in § 843.310 of this chapter, but only if the survivor is entitled to the basic employee death benefit described in § 843.309 of this chapter;

(ix) A disability retirement under FERS as set forth in subchapter V of chapter 84 of title 5 United States Code;

(x) A firefighter or law enforcement annuity under FERS as set forth in § 842.208 of this chapter, but only to the extent that the service was as a law enforcement officer or firefighter as described in § 842.809(b) of this chapter;

(xi) An air traffic controller annuity under FERS as set forth in § 842.207 of this chapter, but only to the extent that the service was as an air traffic controller as described in § 842.809(a) of this chapter;

(3) The computation of benefits under § 846.304(b); and

(4) The computation of average salary under § 846.304(d).

§ 846.303 Crediting military service.

(a) Military service performed before the effective date of the election under § 846.201 creditable as provided under FERS, except as provided in paragraphs (b) and (c) of this section.

(b) Military service described in paragraph (a) of this section which would be creditable under CSRS except for the provisions of § 846.306 and performed by an individual who is subject to an annuity computation under § 846.304(b) is creditable for—

(1) The minimum period for entitlement to an annuity under FERS based on—

(i) The immediate voluntary retirement provisions under § 842.204 of this chapter;

(ii) The early retirement provisions under § 842.205 of this chapter;

(iii) The involuntary retirement provisions under § 842.206 of this chapter;

(iv) The Member retirement provisions under § 842.209 of this chapter;

(v) The military reserve technician retirement provisions under § 842.210 of this chapter;

(vi) The Senior Executive Service, Defense Intelligence Senior Executive Service, or the Senior Cryptological Executive Service retirement provisions under § 842.211 of this chapter; or

(vii) The deferred retirement provisions under § 842.212 of this chapter.

(2) Computation of benefits under § 846.304(b).

(c) If the effective date of the election of FERS by an individual who is subject to annuity computation under § 846.304(b) occurs when the individual is in non-pay status and is performing active military service, benefits for the military service performed before the effective date of the election are computed under CSRS, and benefits for the military service performed after the effective date are computed under FERS. The period of military service is considered to be two separate full periods of service, one ending the day before the effective date of FERS and one beginning on the effective date of FERS. The deposit for the period of service before the effective date of FERS coverage is computed under CSRS provisions set forth in part 831, subpart U of this chapter. The deposit for the period of service beginning on the effective date of FERS coverage is computed under FERS provisions set forth in part 842, subpart C of this chapter.

§ 846.304 Computing FERS annuities for persons with CSRS service.

(a)(1) The basic annuity of an employee who elected FERS coverage is an amount equal to the sum of the accrued benefits under CSRS as determined under paragraph (b) of this section and the accrued benefits under FERS as determined under paragraph (c) of this section.

(2) The computation method described in paragraph (a)(1) of this section is used in computing basic annuities under part 842, subpart D of this chapter, survivor annuities under part 843, subpart C of this chapter, and the basic annuities for disability retirement under subchapter V of chapter 84 of title 5 United States Code.

(3) An annuity computed under this paragraph is deemed to be the individual's annuity under FERS.

(b)(1) Except as provided in paragraphs (b)(2) and (b)(3) of this section

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and § 846.305, accrued benefits for civilian service as described in § 846.302(c), and military service as described in § 846.303(b) are computed under CSRS provisions.

(2) Reductions to provide survivor benefits required under part 831, subpart F of this chapter, and the 50-percent minimum annuity for air traffic controllers described in 5 U.S.C. 8339(e) do not apply to accrued benefits under this paragraph.

(3) Sick leave creditable under § 831.302 of this chapter is equal to the number of days of unused sick leave to an individual's credit as of the day of retirement, death, or as of the effective date of the election of FERS coverage, whichever is the lesser amount of sick leave, for an individual who—

(i) Retires under §§ 842.204, 842.205, 842.206, 842.207, 842.208, 842.209, 842.210, or 842.211 of this chapter;

(ii) Dies leaving a survivor eligible for a monthly FERS survivor annuity under § 843.310 or § 843.311 of this chapter; or

(iii) After retiring for disability, becomes entitled to an annuity computation under part 842, subpart D of this chapter.

(c) Accrued benefits are computed under FERS for the following service:

(1) Creditable civilian service performed on or after the effective date of the election of FERS coverage;

(2) Creditable civilian service other than as described in § 846.302(c); and

(3) Creditable military service other than that described in § 846.303 (b) and (c).

(d)(1) Except as specified in § 846.305, the average pay for computations under paragraphs (b) and (c) of this section is the largest annual rate resulting from averaging the individual's rates of basic pay in effect over any 3 consecutive years of creditable service or, in the case of an annuity based on service of less than 3 years, over the total period of creditable service, with each rate weighted by the period it was in effect.

(2) For the purposes of paragraph (d)(1) of this section, service is considered creditable if it is creditable under either CSRS or FERS.

(e)(1) The cost-of-living adjustments for the annuities of individuals elect-

ing FERS coverage are made as follows:

(i) The portion of the annuity computed under paragraph (b) of this section is adjusted as provided under CSRS.

(ii) The portion of the annuity computed under paragraph (c) of this section is adjusted as provided under FERS.

(2) An annuity initially payable to an annuitant's survivor (other than a child under part 843, subpart D of this chapter) is increased by the total percent by which the annuitant's annuity was increased under this paragraph. Thereafter, the survivor annuity is adjusted for cost-of-living increases under 5 U.S.C. 8462.

(f) In computing an annuity under paragraph (a) of this section for an employee retiring under § 842.204(a)(1) or § 842.212(b) of this chapter, any reduction for age required by § 842.404 of this chapter applies to the sum computed under paragraph (a) of this section. No reduction under CSRS is applicable.

(g) In computing an annuity under paragraph (a) of this section for an employee retiring early under § 842.205 of this chapter or involuntarily under § 842.206 of this chapter, the reduction for age required by 5 U.S.C. 8339(h) applies to the portion of the annuity computed under CSRS provisions.

(h) In computing an annuity under paragraph (a) for an employee retiring as a firefighter or law enforcement officer under § 842.208 of this chapter or as an air traffic controller under § 842.207 of this chapter, there is no applicable reduction for age.

(i) An annuity supplement under part 842, subpart E of this chapter, is computed using the same civilian service used for the computation under paragraph (c) of this section.

(j) An alternative form of annuity for a basic annuity computed under paragraph (a) of this section is computed as follows:

(1) The alternative benefit for the portion of the annuity computed under paragraph (b) of this section is computed under CSRS as provided in part 831, subpart V of this chapter, except that a refund of CSRS contributions based on a refund application filed

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after the individual elects FERS coverage may not be deemed to be redeposited under § 831.2206 of this chapter if the individual is entitled to a deferred annuity under § 842.212 of this chapter.

(2) The alternative benefit for the portion of the annuity computed under paragraph (c) of this section is computed under FERS as provided in part 842, subpart G of this chapter.

§ 846.305 General inapplicability of CSRS provisions.

(a) Except as provided by this part, CSRS provisions are not applicable with respect to an individual who elects FERS coverage.

(b) An employee (or an employee's survivor for the purposes of a survivor annuity) may make a deposit under CSRS for any civilian service under § 846.302(c) of this part or military service under § 846.303.

(c) Nothing in paragraph (a) of this section precludes the payment of any lump-sum credit (as defined in 5 U.S.C. 8331(8)) in accordance with part 831, subpart T of this chapter.

[52 FR 19235, May 21, 1987. Redesignated at 58 FR 48273, Sept. 15, 1993]

Subpart D—Refunds of CSRS Contributions

§ 846.401 Refunds of excess contributions.

(a) An individual who elects FERS coverage is entitled to a refund of CSRS contributions made prior to the effective date of the election for service that is subject to FERS computation under § 846.304(c) (if not already refunded) which exceed the contributions required under FERS, as provided by this section.

(b) The refund is equal to—

(1) For service described in § 846.302(a) and performed on or after January 1, 1984, and before January 1, 1987, the amount by which the amount contributed exceeds 1.3 percent of basic pay;

(2) For service described in § 846.302(a) and performed on or after January 1, 1987, the amount by which the amount contributed exceeds the amount required under § 841.503 of this chapter; and

(3) For service described in § 846.302(b), the amount by which the

amount contributed exceeds 1.3 percent of basic pay.

(c) A refund made under this section is payable with interest computed as prescribed under § 831.105 (d) and (e) of this chapter. Interest is payable regardless of the length of the period of service for which refund is being made or the total amount of service the employee has.

(d) A refund described in this section is payable upon the receipt of an application by OPM or its designee.

§ 846.402 Refunds of all CSRS contributions.

(a) An individual who elects to transfer to FERS is entitled to a refund of all CSRS contributions in accordance with the provisions of part 831, subpart T of this chapter.

(b) An application for refund of FERS retirement contributions under § 843.202 of this chapter is deemed to also be an application for refund of CSRS retirement contributions under part 831, subpart T of this chapter.

Subpart E—Cancellation of Designations of Beneficiary

§ 846.501 Cancellation upon transfer to FERS.

A designation of beneficiary made under § 831.2005 of this chapter is cancelled on the effective date of an election of FERS coverage. Designations of beneficiary under FERS must be made in accordance with § 843.205 of this chapter and apply to an employee's contributions under both CSRS and FERS.

Subpart F [Reserved]

Subpart G—1998 Open Enrollment Elections

SOURCE: 63 FR 33233, June 18, 1998, unless otherwise noted.

§ 846.701 Purpose and scope.

This subpart contains OPM's regulations applicable to elections of FERS coverage during the 1998 open enrollment period, including—